THE HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.34418 of 1997

% Dated 21.03.2007

Annapurna Co.op. Housing Society, rep., by its Secretary P.Vishnuvardhan Reddy, S/o. Narayana Reddy, aged 28 years, R/o. Hyderabad.

....Petitioner

$ The Commissioner of Land Revenue, Government of Andhra Pradesh, Hyderabad and another.

....Respondents

! Counsel for petitioners: Sri M.V.Durga Prasad

^Counsel for Respondents : G.P. for Assignment.

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? Cases referred

NIL

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WRIT PETITION No.34418 of 1997

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Date: 21.03.2007

Between:

Annapurna Co-op. Housing Society.

....Petitioner

And

The Commissioner of Land Revenue and others.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.34418 of 1997

O R D E R:

The petitioner is a Co-operative Housing Society. It purchased an extent of 11,200 square yards of land in Survey No.49/6 of Gajularamaram Village, Ranga Reddy District, through a sale deed, dated 03.08.1991, from its registered owner. The District Revenue Officer, Ranga Reddy, the second respondent herein, initiated proceedings under Section 166-B of the A.P.(Telanaga Area) Land revenue Act, 1317 Fasli, (for short 'the Revenue Act'), against the assignees of the land in Survey No.49/6 of Gajularamaram Village, admeasuring about Ac.65.00, on the basis of the information furnished to him by the Mandal Revenue Officer, Qutbullapur. 13 persons, against whom the proceedings were initiated, were said to be assignees and it was alleged that they sold their lands in contravention of the conditions of assignment.

The second respondent passed an order, dated 17.08.1996, directing cancellation of the assignments as regards Ac.65.00 of land in Survey No.49/6. On coming to know about the said order, the petitioner sought to put forward its contentions, and accordingly, filed a revision

before the first respondent. The revision was dismissed on 22.10.1997, on the ground that the petitioner was not a party to the proceedings before the second respondent, and that it can agitate its grievance, if it is so advised, before the second respondent itself. The said proceedings are challenged in this Writ Petition.

Sri M.V.Durga Prasad, the learned counsel for the petitioner submits that the matter relating to alienation of the assigned lands is exclusively covered by the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Prohibition Act') and it was not at all competent for the second respondent to invoke his jurisdiction under Section 166-B of the Revenue Act. He contends that the powers of revision under that provision are meant, to deal with totally different kind of situations viz., to examine the orders passed by the inferior authorities either *suo motu* or on application and not to initiate, for the first time, the proceedings of adversarial nature. He further contends that the rejection of the revision by the first respondent is contrary to law.

The learned Government Pleader for Assignment, on the other hand, submits that the powers of revision under Section 166-B of the Revenue Act are very wide and there is nothing in law to indicate that they are in any way restricted. It is urged that the impugned proceedings

do not suffer from any illegality or infirmity.

The second respondent initiated proceedings under Section 166-B of the Revenue Act, on the ground that the lands in Survey No.49/6 of Gajularamaram Village, which were assigned to various landless poor persons, have been alienated. It was pointed out that the then Tahsildar, Medchal had resumed possession of the entire lands. For all practical purposes, the second respondent restricted his proceedings to mere cancellation of the assignment. A specific observation was made in the order, to the effect that the land is not only in possession of others, but also the houses were constructed. Having made such observation, the second respondent did not choose to issue notices to the affected parties. He appears to have proceeded on the assumption that the issue before him is only about the cancellation of pattas and not the consequences thereof.

The A.P. State Legislature has enacted A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 1977). This Act prohibits alienation of assigned lands and the procedure for the resumption of lands, that are found to have been alienated in contravention of the provisions thereof. It needs to be noted that the prohibition under the Act does not get attracted, in respect of any and

every assigned land. Two important conditions are that; the assignment must have been made in favour of landless poor persons and there must have been a condition, prohibiting alienation. It is only then that the prohibition operates. To certain extent, alienation of assignment lands in favour of landless poor is saved. Further, the Prohibition Act and the Rules made thereunder prescribe a detailed procedure for initiation of proceedings, an appeal and a further revision by an aggrieved party.

Whatever may have been the scope of powers under Section 166-B of the Revenue Act to deal with the cancellation of assignments before Act 9 of 1977 came into force, a substantial change of legal regime had occurred thereafter. Assuming that there is no conflict between these provisions, it emerges that Section 166-B of the Revenue Act is a general provision, whereas the provisions contained in the Prohibition Act are specific. It is trite that when a situation is governed by specific provisions, it cannot be dealt with under the general provisions.

Another aspect of the matter is that the second respondent ought to have issued notices to the aggrieved parties, even assuming that he had jurisdiction and power to deal with the situation. Having noticed that the land was

divided into plots and several persons have constructed houses therein, he did not choose to issue notices to the affected persons. Further, the first respondent proceeded on a hyper technical ground that a revision cannot be maintained by a person, who was not a party to the original proceedings. He did not care to verify that the petitioner made an attempt to put forward its grievance, before the second respondent also.

For the foregoing reasons, the Writ Petition is allowed and the impugned order is set aside. It is, however, made clear that it shall be open to the authorities concerned, to take necessary steps under the relevant provisions of law, if they so wish. There shall be no order as to costs.

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21.03.2007

Note: L.R.copy to be marked.

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